

Working with the Division of Conservation Services on Conservation Restrictions

This chart outlines the process through which applicants submit a conservation restriction to the Division of Conservation Services (DCS), within the Commonwealth's Executive Office of Energy and Environmental Affairs (EOEEA), for review and approval. Included below are the expectations of applicants and DCS, as outlined by the Massachusetts Land Trust Coalition (MLTC) and DCS. Please visit the DCS website for the CR application form, Model Conservation Restriction (Model CR), and other relevant information - <https://www.mass.gov/service-details/conservation-restriction-review-program>

Step	CR Applicant	DCS
1	Mails CR Application form to DCS	Requests supporting material via e-mail
2	E-mails supporting material as outlined on application form (e.g., MS Word version of Draft CR, exhibits, maps)	Once all supporting material is received, e-mails acknowledgement receipt, assigning CR # and Reference #
3		Reviews CR and provides comments using MS Word's 'track changes' and 'comments' features
4	Revises CR based on DCS input, ensuring both Grantor and Grantee accept proposed revisions, and e-mails revised CR to DCS; OR, provides second draft to DCS with further proposed changes or further comments	If CR is ready, advances to EOEEA legal staff for final review; OR Reviews second draft and provides additional comments
5		Forwards comments from EOEEA legal staff, if any, to CR applicant
6	Revises CR, if necessary, based on comments of EOEEA legal staff, and resubmits to DCS	If all comments have been addressed, e-mails letter acknowledging that the CR is 'approved for local signatures'

7	Collects signatures of Grantor, Grantee, municipality, and any other required signatures.	
8	Mails one (1) non-original <u>copy</u> of a fully executed CR to DCS	Advances CR to the Secretary of Energy and Environmental Affairs for signature
9		Mails signed CR back to CR Applicant via mailing instructions provided on the CR Application Form
10	Records CR and e-mails PDF of recorded CR to DCS; requests that registry enter a marginal note on the grantor's deed(s) for the property.	Closes out and archives CR file in DCS database; shares recorded CR with GIS department

MLTC and DCS have developed the following list of shared expectations for the CR drafting, application and review process. Some items are clearly the responsibility of one party or the other, but all are focused on making the process work well for everyone involved.

In preparing a CR an applicant will:

- Use the latest version of the Model CR that is available on the DCS website when initially drafting the CR, as the model has been carefully developed and revised based on case law and the experience of the conservation community. Recognizing that CR negotiations and drafting may have begun between grantor and grantee when a prior version of the CR Model was in place, DCS review will direct any requested edits arising for this reason to those which correct for prior Model language that has since been shown to be significantly problematic.
- Include comments in the draft document to explain the purpose for any departures from the Model CR language.
- Coordinate collection of input and comments from all parties, including municipal review as necessary.

In reviewing a CR, DCS will:

- Base its review on its stated goals of:
 - Ensuring that the CR is in the public interest.
 - Seeking clarity of language in the CR.
- Provide comments to clarify the intent of requested revisions and clearly distinguish changes that are required by DCS/EOEEA vs. those that are recommended.
- Once submitted for the Secretary of Energy and Environmental Affairs' signature, work to ensure the CR is signed within 10 business days provided that no guarantees can be given. DCS strongly recommends that the applicant hold off on scheduling a closing until it has received the CR with the Secretary's signature.

Throughout the process the parties will:

- Ensure consistency between the purposes section and the stated conservation values, prohibited acts, and reserved rights.
- Understand that Reserved Rights can be specific to each CR holder, necessitating clarity and specificity from the applicant in document drafting and flexibility from DCS in document review.
- Ensure that property descriptions, surveys, grantor(s), grantee(s), deed and other recorded references, other exhibits, etc., are complete and accurate.

For general inquiries regarding conservation restrictions, contact Denise Pires, Program Coordinator, at Denise.Pires@mass.gov, or 617-626-1011